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TRANSCRIPT OF PROCEEDINGS

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of: Petition of WorldCom, Inc., Pursuant to Section 252 (e) (5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration	CC Docket No. 00-218
In the Matter of: Petition of Cox Virginia Telecom, Inc., Pursuant to Section 252 (e) (5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Arbitration	CC Docket No. 00-249
In the Mater of: Petition of AT&T Communications of Virginia, Inc., Pursuant to Section 252 (e) (5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc.	CC Docket No. 00-251
	Volume 1

Pages 1 thru 346

MILLER REPORTING COMPANY, INC.
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Washington, D.C.
October 3, 2001

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	Volume 1

Wednesday, October 3, 2001
Washington, D.C.

The hearing in the above-entitled matter came on, pursuant to Notice, at 9:40 a.m.

BEFORE:

DOROTHY ATTWOOD, Arbitrator

KATHERINE FARROBA, Staff

JEFFREY DYGART, Staff

JOHN STANLEY, Staff

FCC Staff Members:

HENRY THAGGART

CATHY CARPINO

WILLIAM KEHOE

PRAVEEN GOYAL

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ALEXIS JOHNS

BRAD KOERNER

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C O N T E N T S

E X H I B I T S

NUMBER	MARKED	ADMITTED
Commission Exhibit No. 1		11
AT&T Exhibit No. 18	59	108
AT&T Exhibit No. 19	94	108
AT&T Exhibit No. 20	96	108
AT&T Exhibit No. 21	108	108
AT&T Exhibit No. 22	313	313
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AT&T Exhibit No. 24	323	344

P R O C E E D I N G S

ARBITRATOR ATTWOOD: Why don't we begin. For the record, we are opening the proceeding related to the arbitration of agreements, Interconnection Agreements with Verizon, CC Docket Numbers 00-218, 00-251, and CC Docket Number 00-249, with WorldCom, AT&T, and Cox respectively.

I want to thank everybody for coming. There are a fair amount of people here.

I would also thank you really for the diligence you have expressed in the course of this proceeding. We have done a lot of work, and we are going to continue to do a lot of work, but we are looking forward to the kind of cooperation and effort that you have exhibited throughout now, and I look forward to it in this proceeding as well.

We indicated in our October 1st letter that the opening statements will be very short, and then we will move directly to the cross-examination phase. I think we will have AT&T go first, with WorldCom second, both having 10 minutes, Cox third and then Verizon last.

A couple of housekeeping announcements. First of all, I want to clarify for the record that the exhibits that were entered during the prehearing conference are incorporated into the record of this hearing, so that's just formally to bring them in.

At 10:00, there will be a public address system being tested in the building. It has no emergency significance. It's a test. We will at 10:00 take a quick moment to break for that, just a brief interruption, and then we will continue.

I would ask that counsel and witnesses keep in mind that the Court Reporter doesn't necessarily know all of the colorful words we use in the telecom industry, especially at the outset, so if we could make sure that we not use acronyms and actually indicate what we are talking about, and clearly identify that for the Court Reporter, that people try to take that into consideration. And avoid as much as possible the overuse of such words, but we are in an industry that may have names for everything.

For purposes of cross-examination, have you all reached an understanding about the order of cross-examination? I know you were working on that.

MS. FAGLIONI: We have not.

ARBITRATOR ATTWOOD: We will rotate by, and we will keep track of that.

We will start with Verizon for the first go in the first panel.

Because of space issues, we will have to see how things work out, but I think we want to--I think, as a general matter, we will have the cross-examinations go in seriatim, but you should recognize we will probably bring everybody back for purposes of staff questions so that those that were cross-examined or had cross-examination early on need to stay on until that panel in its entirety is excused. So, we may bring everybody back for questions the staff may have, depending on how much of the questions remain after the cross.

We will also--staff may interrupt during the cross, but we don't want people to feel free to

leave at the end of that. They should stay around.

With respect to Cox's motion, we understand you have reached an understanding.

MR. HARRINGTON: Yes, this is J.G. Harrington for Cox.

Roughly simultaneously with the letter we sent to the Commission yesterday, Verizon sent to Cox's negotiator new proposed language from Verizon for I-5, and that language satisfies our concerns raised in the motion to strike and raised in the motion to force the August 17th order.

So, we believe that has been resolved, but I will emphasize--and I'm sure Verizon agrees with this--this is not resolving issue I-5 with the parties. It just raises the motion issue that was raised by the motions to strike.

ARBITRATOR ATTWOOD: Thank you.

MR. DYGART: The only other housekeeping matter at this point is, so we could effectively talk with witnesses about contract language that may appear in the Joint Decision Point List that you all have submitted, we will move into the

record of this proceeding as Commission Exhibit Number 1, the entire Joint DPL.

(Commission Exhibit No. 1 was admitted into evidence.)

MS. FAGLIONI: May I ask for clarification. Are you moving it in as a demonstrative exhibit as opposed to indicating the content of JPL itself?

MR. DYGART: Yes, we are moving it in as a demonstrative exhibit.

MS. FAGLIONI: Thank you.

ARBITRATOR ATTWOOD: For the record, we need to identify ourselves. I'm sorry we didn't do that at the outset.

Dorothy Attwood, Chief Arbitrator for his hearing.

MR. DYGART: Jeff Dygart, Common Carrier Bureau.

MS. FARROBA: Katherine Farroba, Common Carrier Bureau.

MS. PREISS: Tamara Preiss, Common Carrier

Bureau.

MR. THAGGART: Henry Thaggart, Common Carrier Bureau.

MS. CARPINO: Cathy Carpino, Common Carrier Bureau.

MR. KEHOE: William Kehoe, Common Carrier Bureau.

MR. HARRINGTON: J.G. Harrington, Cox Virginia Telecom, Inc.

MR. SCHNEIDER: Mark Schneider from Jenner & Block, representing WorldCom.

MS. KELLEY: Jodie Kelley from Jenner & Block, representing WorldCom.

MR. KEFFER: Mark Keffer, AT&T.

MS. BALDANZI: Stephanie Baldanzi, AT&T.

MS. FAGLIONI: Kelly Faglioni, Hunton & Williams, on behalf of Verizon Virginia.

MR. GARY: Rick Gary on behalf of Verizon Virginia.

ARBITRATOR ATTWOOD: Why don't we begin with opening statements, then, from AT&T.

OPENING STATEMENTS BY COUNSEL FOR

AT&T

MR. KEFFER: Mark Keffer for AT&T.

PSI Net, Teligent, Links Networks, XO Communications, Winstar, Northpoint, Rhythms, ICG, HarvardNet, DSL Net, RCN Corporation, Covad.

All of these Internet Service Providers and CLECs--and others--have now either gone bankrupt or cut back their growth and expansion plans. Verizon Virginia's own data shows that over 300 co-location arrangements are presently being leased by CLECs that are either operating under bankruptcy protection or who have declared bankruptcy.

The three CLECs before the FCC in this proceeding are faring only slightly better. Since January 1999, AT&T has lost over half of its market value, so has WorldCom. Now, of the group, Cox is the relative star. Its share price has fallen only about 30 percent since its high in January of 2000.

Now, what's going on here? It's simply this: The bright promise of the Telecom Act of '96 is not being fulfilled the way Congress and this

Commission have intended. Not even close. Local exchange competition and the benefits that such competition can and should deliver to consumers in the form of lower prices, more choices, and better customer service, remains an unfulfilled promise to the American people.

Now, why has it turned out that way? Well, some like to argue that economic conditions have not been right, that CLECs went on a binge of overinvestment after the Act became law, and the recent downturns are simply part of the process of sorting out the winners and losers. Some also argue that CLECs are mismanaged or incompetent. And based on what I have observed first-hand after the AT&T divestiture in 1984, I have to dismiss those arguments as uninformed and just plain wrong.

Telecommunications competition can work, and the long-distance market has proven it. As long-distance competition emerged in the eighties and nineties, there were, to be sure, a broad range of mergers and consolidations, but those mergers occurred to make carriers stronger, not because of

widespread failures. As competition became more intense, prices fell, consumers benefited. Just by way of example, in Virginia, AT&T's average in-state prices fell by nearly 50 percent in the decade from 1990 to 2000, while at the same time its volumes increased by some 60 percent. In the long-distance business, competition has worked the way it should: to lower prices and give consumers real choice.

Unfortunately, local competition is following a much different track. Instead of merging and consolidating to become stronger, CLECs are simply going bankrupt or selling their assets at fire-sale prices. Local competition is dying before it even had a chance to begin.

Why has long-distance competition been so successful, but local competition a relative nonstarter? The problem is not with the Act. While the Act has its problem areas, the overall structure is sound, certainly sound enough to allow local competition to emerge. Nor has the problem been with the FCC's rules and guidelines for

implementing the Act.

Here again, while those rules have some problems--and as the Commission well knows, AT&T has not been shy about expressing its concerns--the rules generally are adequate to promote local competition.

So, where is the problem? From my perspective, the biggest impediment to the development of local competition has been the failure of the states--the failure of the states--to implement this Commission's pricing and interconnection rules as they should.

No, why is that? Again, from the perspective of someone who has been involved in state regulatory matters for over 20 years, the reasons are straightforward and, in hindsight, probably were entirely predictable at the time the Act became law.

For one thing, the states have been largely confused by the concept of TELRIC, T-E-L-R-I-C, all caps. The TELRIC concept was a new one for state regulators, and for the most part

they implemented it poorly. The comfort zone for most state commissions is the traditional rate case where you reserve the expenses for some historical test year, make the appropriate pro forma adjustments for known and measurable changes, and set rates for the future. Those principles work fine in a monopoly environment, but they do not work when the objective is to introduce competition in an industry experiencing rapid technological change.

Take local switching rates as an example. As Ms. Pitts and Ms. Murray address in their testimony, because the costs of switching are fairly uniform across the country, one would expect that TELRIC-driven UNE rates for switching would also be somewhat homogenous. But that's far from the case. A CLEC purchasing a switch port at 1500 minutes of local switching could pay anywhere from about $3 for switching in states like Tennessee, Georgia, Washington and New Mexico, but twice that much in Texas, Maryland and New Jersey, three times that much in Massachusetts and Connecticut, and

over ten times that much in Maine. Now, all those rates cannot be TELRIC-compliant, and it may be that none of them are.

The confusion over TELRIC has not been the only problem. The states have also, understandably, been risk-averse. Even before the Act was signed into law, Verizon was telling state regulators and their staffs that implementation of the Act was going to drive up rates for basic residential telephone service.

Now, the states responded to that news by trying to inch towards competition, and the outcome from the first round of arbitrations in '96 and '97 became something of an experiment. The state commissions' objective in many instances was to implement UNE rates that would allow some competition to see how it would work, but not enough competition for competition to become widespread. What they were hearing from the RBOCs was that they wanted to be very cautious about how competition evolved in their states.

What we are seeing now, of course, is that

the CLEC guinea pigs who drafted business plans and made investments, and who tried to enter the local market-based on their faith that the states would implement UNE rates as the FCC intended, are not surviving the experiment.

Where do we go from here? Can local competition become a reality? Can the CLEC bloodletting be stopped? I believe, I hope, and I pray that the answer is yes, but that answer depends on whether this Commission acts swiftly, boldly, and decisively. In this case, the Virginia Commission, in what may ultimately prove to be a strike of regulatory genius on its part, has now given the FCC an opportunity to show the states how TELRIC principles should be implemented and what terms and conditions need to be put in place so real and meaningful competition finally begin to emerge. And asking the FCC to conduct this arbitration, the Virginia Commission has, in practical effect, asked the FCC to instruct the states on how to implement appropriate TELRIC rates. The FCC here has a golden opportunity to

show the states how it's supposed to be done.

Let's be clear: This is more than a good chance to get things right. It may be the only chance to get things right. Unless this Commission sets UNE rates, terms, and conditions of this proceeding to unleash the power and promise of the Telecom Act, CLECs are going to continue to exit the market, and the Act will be declared a failure.

This case is the last best chance to get things done. We have got a lot of issues to cover in the next month. Let's roll up our sleeves and get to work.

ARBITRATOR ATTWOOD: Thank you.

MS. KELLEY: Would you like me to start?

ARBITRATOR ATTWOOD: I suspect this will happen at 10. Why don't we take a minute and plan to resume at 5 after 10 so that you're not interrupted.

(Brief recess.)

ARBITRATOR ATTWOOD: Why don't we go back on the record.

OPENING STATEMENT BY COUNSEL FOR

WORLDCOM

MS. KELLEY: Good morning. I would also like to take the time available to me this morning to try to put the issues we raised in context, and explore some of the themes that are common to the issues that are before you.

And I would like to start first with the 1996 Act. As you all know, in addition to the specific requirements of the Act, Congress delegated to both Federal and state regulators both the authority and the duty to implement them in a way that made them work.

Now, to the FCC again, as you well know, gave the task of promulgating and implementing regulations, but it also understood those regulations alone weren't enough. They had to be translated into actual working agreements between the new entrants and incumbents.

The 1996 Act does not lead the incumbents to dictate the terms of those agreements. Instead, it sets up a process by which new entrants can ask for the terms and conditions they need to make

these requirements work to actually enter local markets. And if they can't agree--and we frequently can't agree--it imposes a process, and it directs state commissions or the Commission acting in the place of the Virginia Commission to resolve all open issues by proposing appropriate conditions as required to implement the Act.

Now, in a normal commercial relationship this must be a simpler process. In such a relationship, the supplier--Verizon--would have every incentive to make this process simple and painless for us to buy. It would be easier to order their product, for example. And if we wanted it delivered at a certain time that they could do it, they would want to do it. And they would want to make all the mechanisms that go along with the it as well. If we want some type of billing, for example, they would be normally happy to provide it.

And they would do this and more because in that kind of relationship they would want us to come back. They would want us to buy more from

them. Indeed, in a normal commercial relationship, the supplier not only wants the buyer to purchase; they need the buyer to survive.

So, in a competitive market, the supplier would do whatever it took within the bounds of what's reasonable to provide any good or service the buyer wanted and the manner they wanted it.

In this context, of course, the incentives are stood on their head. The incumbents don't want to help us. And I'm not trying to disparage them. I'm not suggesting that they're bad people, but Verizon is a business, and they know full well that every customer we take from them in the State of Virginia, in fact, we take from them. And they know that we need to rely on them to attract these customers, to provision service to these customers, and to keep these customers.

So Verizon, our sole supplier here for the critical inputs we need to provide our service, has no incentive to make it easy for us to order elements, no incentive to provision them in a manner that's easier and more efficient to serve

our customers, and no incentive to set up processes like billing workable. The incentives, indeed, are the opposite. They know every way they could make it little more difficult or little more expensive for us, makes it harder for us to enter the market. They know that every way in which the customer experiences the transition from Verizon to us is less than seamless, makes it more likely that customer will experience our service as a barrier and a return for Verizon.

And the FCC expressly recognizes the local competition order. It noted incumbent LECs have both the incentive and the ability to engage in many kinds of discrimination for the very reasons we have been talking about.

Now, what all this means is WorldCom is here today asking us to give what the Act understands we need, not just bare bones agreement, not an agreement that references applicable law or points to the Act or points to the FCC's regulations, but instead the specific terms and conditions in an agreement that allows the

requirements of the Act and of the implementing regulations to be turned into a competitive reality.

Now, I know there are a lot of issues on the table, but I ask you to remember that we are asking for each of the things we ask for because, in our judgment, and in our experience--and we have spent, after all, five years trying to enter local market--this is what we need.

And although I'm sure all of us, including me, have at times looked at this list and thought, "Can't we let some of this go?" The answer is no, we can't. The list of issues is long, but it's long because we have sought them. And Verizon, who has no incentive to give them to us, has not. They understand they could contest issue after issue after issue. Some of them they may win. And every clause remains ambiguous, every legal issue remains unresolved, makes it that much harder for us to enter local markets.

Now, I thought I would take these broad principles and reduce them to a few themselves we

will see over and over in the issues that are before you. One recurring theme in the issues presented is one that I touched on: Verizon's assertion that the contract should be minimal. It should be bare bones, and it should point solely to applicable law. They say, by and large, "We will give you what the Act requires, but no more. To the extent we need details, we could work it out later. It's complicated. Let's do it on a case-by-case basis."

As an initial matter, that begged the question of what the applicable law is and what terms should be implemented to implement it. And as this case highlights, we can't typically agree on that. Verizon's GRIPS proposal is a good example. They acknowledge they have to interconnect with us. They acknowledge that the Commission has indicated that new entrants can select single point of interconnection, but they say, "In our view, we should get to pick an interconnection point. You come and get the traffic that originates on our network, and if you

don't want to bill to us, we are happy to charge you access rates for the privilege of doing business." In our view, the FCC's current regulations loudly preclude that, but we can't reach agreement on that.

When there are changes in law, we run into the same problem. Combinations is a good example. We disagree vehemently about the effect of the 8th Circuit's decision, and there was a change in the law. But the parties disagree vehemently what that change means, and we have been fighting about it since that change occurred, and we are fighting about it now.

We also disagree about what we do when we disagree. One issue before you is a change in law provision. In Verizon's view, if the law changes in a way that it believes allows it to stop doing something that it was required to do, it's just going to stop doing it, even if we don't believe that change in law allows it to stop. And we think, especially in the incentives we talked about, that that's a terrible idea.

We are also unable, by and large, to reach agreements on a case-by-case basis. It's not a good idea to defer these issues. One small example is supergroups. These are trunks that can carry traffic from different jurisdictions. Now, we want these because they're more efficient for us. More different kinds of traffic to travel over one trunk, the fewer trunks we have to buy. And we get this from other carriers so we know it can be done.

In the last Virginia agreement, the one that's just expiring, there was a clause in which the parties agreed to work cooperatively together and to develop these types of trunks. We never got them. We are back before a commission three, three and a half years later still trying.

Myriad other examples. We can't agree on who is responsible if Verizon, in carrying out the obligations under the agreement we will eventually enter into, is convinced something is legally wrong. Verizon says it should be us that's responsible.

One small example is directory listings.

We say if Verizon makes an error when it's inputting our customer direct list, they should be responsible for that error, and they say, "No, if we engage in wilful misconduct, if it's your customer, it's your responsibility."

A critical point, I think, is this: Verizon is anxious for details in a contract that insulate them. You will see some language in Section 1 of the UNE attachment, and I'm obviously paraphrasing, but it says essentially this: "We will give you UNEs and combinations, but only to the extent we have to. And if it turns out we don't have to, we are not going to do it. And don't think because we are going to agree to something in here that that means that we are legally obligated."

This is not a contract provision where the seller wants to buy. And for as much protective detail they want for themselves, they are fighting to keep out the kind of details we need, all the terms and conditions that allow us to take what the Act requires and turn it into what the Act holds

out the promise for: true competition in Virginia's markets.

We appreciate your patience and your attention as we explain to you over the next week and a half what those terms and conditions are that we seek, and why it's appropriate for you to order they be included in our agreement.

ARBITRATOR ATTWOOD: Thanks very much.

OPENING STATEMENT BY COUNSEL FOR COX

MR. HARRINGTON: J.G. Harrington of Dow, Lohnes & Albertson for Cox.

Cox worked very hard to resolve as many issues as possible in negotiations with Verizon, and largely was successful. As a result, Cox has presented only 11 issues in this proceeding which is easily the smallest number. We are happy about that.

In the give and take of the negotiation process, Cox compromised anywhere it felt it could because it wanted to maximize the likelihood of reaching an agreement.

Cox is small compared to the other companies here, and arbitration is not a cost-efficient, but we would like to resolve all the issues. For that reason, even in this proceeding, many of Cox's positions represent compromises from what Cox would normally like to do, but there were efforts to find resolution, and I think that's been the theme of everything Cox has tried to do.

Nonetheless, we have 11 issues from Cox's perspective. We believe the evidence in this proceeding is going to show quite clearly that Cox's position is reasonable in each of these issues and should be adopted.

The Cox issues fall into a small number of categories. The largest of those are issues related to network architecture. And I'm not going to go through each of the 11 issues, although that's conceivable to do that in the time allocated, but generally the network architecture issues focus on the question of whether Verizon or Cox is to decide what Cox's network architecture

looks like, directly or indirectly. In some cases, the decisions of Verizon are one to make for Cox are made indirectly. For instance, in their GRIPS proposal, they are forcing Cox to bear the financial consequences of Verizon's decision not to connect with interconnect. In such cases as issue I-3 on co-location, Verizon wants to obtain the opportunity to co-locate a Cox facility where that right doesn't exist.

The second category of issues is issues related to intercarrier compensation. In the case of those issues, Verizon again is seeking, through the negotiations and through the proposals it's made in this proceeding, to limit Cox's ability to get paid for the traffic that Cox actually carries, again in a way that advantages Verizon.

The third category is related to the customer of the treatment of proprietary information, CPNI, and whether, in fact, Verizon has the right to monitor Cox's use of CPNI in ways that Cox thinks could be very well anticompetitive.

The last category of issues--and I left an

issue out here--has to do with basic terms of the contract and when the contract can be terminated. Again, Verizon's proposals have sought to give it the right to terminate that would be detrimental to Cox and detrimental to competition.

Verizon's positions on all of these issues share certain characteristics among the issues, and all those characteristics are significant to the Commission's decision in this proceeding. In several cases, Verizon's proposed language is actually contrary to the Commission's requirements, Commission decisions, and even the provisions of Section 251, and that's particularly the case with co-location.

Second, Verizon in many cases has made proposals that would give it rights under the agreement that it does not give to--that Cox would not have under the agreement or have not been granted to Verizon by a legal or regulatory body. For instance, such as Verizon's proposal to cap rates for services provided by Verizon or its proposal to get audit right for ISP but not allow

Cox to do the same.

Third, many of Verizon's positions do not recognize Cox's status as a co-carrier. This is a very important point in this proceeding. While Cox is a lot smaller than Verizon, Cox still has the same status as a co-carrier as any other telephone service company in Virginia, and the agreement has to recognize that status.

In many cases, Verizon's positions would just force what Verizon wanted the network to look like on Cox or would abdicate Verizon's right as a co-carrier, the issue like forecasting and the GRIPS proposals would be one.

Verizon also makes provisions that lack the standards which could implement them. For instance, their proposal for what you would call "local traffic" doesn't have any standards by which you would judge local traffic. Similarly, they don't have any standards for access to CPNI or for use of OSS.

Finally, in some cases, Verizon tries to abrogate powers to themselves, and decide what

rates are good or not good.

Finally, I think it's important for this Commission to recognize that the three petitioners are not all the same. There are differences in the language proposed to differences in some of the positions. While Cox believes that all the petitions are right on all the common issues, we think the Commission needs to focus on differences when Verizon doesn't do so. In many cases, Verizon treats the petitioners as if they are the same. That is not the case. As we will show through this proceeding, these differences make it particularly clear that the Cox position should be upheld in this proceeding.

Thank you very much.

ARBITRATOR ATTWOOD: Thanks a lot. Verizon?

OPENING STATEMENT BY COUNSEL FOR VERIZON VIRGINIA

MS. FAGLIONI: I'm Kelley Faglioni, Hunton & Williams, on behalf of Verizon, and I thank you for your attention. We are here today kicking off

the noncost/nonpriced part of the proceeding, and so I will leave to the later sets of this hearing--the later weeks of this hearing the issue of cost and price. We heard some comments that suggest that maybe we are not talking about normal commercial relationships, and I believe you will be hearing more on the cost and pricing side of the case as to why or what the incentives for Verizon to behave in a normal corporate relationship or commercial relationship are there or not there.

But by its nature, this arbitration requires the parties to talk about what they could not do, what they could not resolve and in many instances what Verizon won't agree to do. But before spending the next couple of weeks focusing on more of the same, step back with me for a minute and look at what Verizon does.

Verizon has stepped up to its duties to negotiate. Prior to the time when each of the thee petitioners filed their respective petitions, Verizon, AT&T, and Cox had reached resolution on significant portions of their Interconnection

Agreements. As we stand here today, despite the slow start with WorldCom, the parties have cut in half the number of outstanding issues relative to the open issues that were filed with the respective petitions and answers.

Step back with me also to focus on the bigger picture of the Interconnection Agreements that will result from this proceeding, although the AT&T, Cox, and WorldCom agreements will each vary in terms of their numbering system, their attachments, their organizations, the grouping of content, you're generally going to find that each of the Interconnection Agreements has or will have at the end of this process change of law provisions, provisions to address new requests for service, and provisions to address dispute resolution in the future.

As you consider each of the individual issues presented for arbitration here, do so against that backdrop and with an eye on how a particular issue or provision fits in the agreement as a whole. While designed for Virginia and

designed to meet the parties' needs as best we know them today, the resulting Interconnection Agreements are, and should be, constructed to be documents that have vitality and remain current in a changing legal and technological landscape. Whether or not they should, the agreements likely will have vitality beyond Virginia and beyond the commissioners sitting here today.

Despite the natural tendency of the arbitration proceeding to focus on the unresolved things, the Interconnection Agreements--either as already agreed as Verizon proposes--demonstrates how much Verizon is doing.

First and foremost, Verizon steps up to its responsibility to comply with applicable law. This is evident throughout the contract language that Verizon either agrees to or has proposed, with references throughout that document, the provision of levels or services in accordance with applicable law. Verizon makes it the guiding principle of its agreements as it should be. As the Commission has recognized in the course of this arbitration, this

proceeding is not the appropriate place to change the law. The applicable law is the keystone of the Interconnection Agreement provides flexibility without the need for excessive detail that will quickly date the document or require constant revision or amendments of documents. There is no need to rephrase or restate the law in the context of the agreement which, at worst, seems to be an attempt to undermine or circumvent the law, and, at best, an unnecessary interjection of ambiguity.

There are numerous instances in which petitioners advance a position inconsistent with the law and inconsistent with the concept that applicable law must be the guiding principle of the Interconnection Agreement.

AT&T attempts to push Verizon's line sharing and splitting obligations beyond currently applicable law by seeking resold advanced services or a UNE platform, going beyond this Commission's Line Sharing Order, Line Sharing Reconsideration Order, Verizon's Connecticut 271 Approval Order, and Verizon Pennsylvania 271 Approval Orders.

Another example with respect to Verizon's obligation to negotiate intellectual property rights for the petitioners' benefit, petitioners want more than what applicable law requires, suggesting that Verizon, in effect, provide a guaranty or indemnity to them.

A final example, contrary to applicable law that recognizes that written consent may be required to migrate a customer's service to another provider, WorldCom seeks to eliminate this form of verification--that is, written consent--to migrate that customer service. Verizon steps up to its duties under applicable law, but in doing so should not be put in the position of foregoing or contracting away the protections of applicable law as it may evolve.

Second, in addition to stepping up to its obligations under applicable law, Verizon steps up to its responsibility to interconnect. However, Verizon's duty to interconnect, which is a duty petitioners share with Verizon, as Verizon points out in issue 13 addressing reciprocal co-location,

Verizon's duty to interconnect is not free license to petitioners to micromanage Verizon's network, products, services, or business operations. Verizon's duty to interconnect is not an invitation to petitioners to shift the financial costs of their own network decisions to Verizon. Verizon's duty to interconnect is not the opportunity for petitioners to dictate what should go on Verizon's drawing board. Verizon must interconnect, yes, but it does not thereby become the CLEC subcontractor.

As the Eighth Circuit made clear, CLECs are entitled to access an incumbent's LEC existing network, not to build a superior one. Verizon need not build a superior network, and if petitioners want something more than that, they could build it themselves.

They can and they should. In fact, this result should be encouraged. A primary purpose of the Act is to promote the rapid deployment of rival telephone networks to create facilities-based competition, not to have ILECs like Verizon subsidize its' competitors' entry into local

markets. The necessary and impair standard underscores this principle of applicable law, recognizing that the petitioners can self-provision or, if services are available in the market, Verizon should not be required to provide that service at regulated--that is, TELRIC--prices.

To require Verizon to provide more than its network as is, or to micromanage Verizon's network, should be rejected. Verizon has one network in Virginia. For the purpose of serving all its customers, both retail and wholesale, and for the integrity of Verizon's one network, Verizon must be permitted to run its own network.

A few examples: Verizon interconnects with petitioners, allowing traffic to traverse its network, including transit traffic, which is traffic that neither originates or terminates to a Verizon customer. Although Verizon is not required to carry this transit traffic, it has agreed to do so. If traffic is tandem routed without limitation, Verizon's tandems will be exhausted. As discussed relative to issues I-4 and III-1,

Verizon should not be forced to build more tandems so petitioners can avoid interconnecting with other carriers as they are required to do under the Act. Rather, Verizon should reasonably protect its existing tandem resources by requiring direct and end-office trunking when petitioners' traffic volume reaches DS-1.

WorldCom attempts to force Verizon to develop alternative transport facilities for WorldCom customer if none exist in the network now.

WorldCom's request for multijurisdictional trunk groups would require Verizon to build a new system that would measure usage differently than it does today.

AT&T requests that Verizon build dark fiber, which, by definition, are spares not in service, and to upgrade electronics to make dark fiber available.

Verizon steps up to its duties to interconnect, but do not confuse the concept of competition in that interconnection with Verizon's existing network with its services with the kind of

competition that will bring new technologies and the rapid deployment of new networks.

Third, Verizon steps up to its duty to provide its network and services at parity and in a nondiscriminatory manner. Verizon must provide services, products, and processes to hundreds of CLECs and countless end users. Verizon employees cannot reasonably be expected to do that at parity and in a nondiscriminatory manner if they're expected to follow processes and procedures that differ for each CLEC.

Industry forums and collaboratives provide an efficient and fair way to ensure that Verizon provides services in a consistent and nondiscriminatory manner. Detailed and varying provisions in an Interconnection Agreement undermine that principle of parity and nondiscrimination. Instead, broad references to industry forums and collaboratives allow for consistency and flexibility to account for industry consensus and developments.

The arbitration of an Interconnection

Agreement should not provide petitioners an opportunity to circumvent the results of industry forums and collaboratives or get a result or a special deal outside the context of that forum or collaborative.

A few examples: With respect to its provision of advanced services, Verizon proposes to make available to AT&T and WorldCom whatever comes out of the New York collaborative. In fact, WorldCom agrees generally with this proposal unless it doesn't get what it wants in the collaborative. CLEC participants in the collaborative are not going to get everything they want in the time frame they wanted.

But I remind you, Verizon has to do this in a manner that's not discriminatory in the CLECs. The Verizon forecast procedures came out of the New York industry forum and collaborative and should apply to CLECs across the board.

Verizon's meet point billing proposal complies with MECAB and MECOD documents.

Verizon's transmission and routing of

exchange services are based on industry collaboratives and forums.

A final example, rather than spelling out the details of the call detail that must be exchanged, Verizon proposes to exchange call detail formatted in accordance with OBF's EMI, MECAB and MECOD documents.

Verizon steps up its duty to provide network and services at parity and in a manner that is nondiscriminatory.

Fourth and finally, Verizon steps up to its own business risk and responsibilities and asks that petitioners do the same. This issue underlies each of the network architecture issues. The first issue, I-1, affects the remaining architecture issues. If WorldCom, AT&T, or Cox choose to locate only one point of interconnection in a LATA, each should be financially responsible for the Verizon call to the point of destination when that call leaves the calling area.

Verizon steps up to its duty to interconnect and the cost of its network, but

petitioners likewise should step up to the cost of their own network design choices. If petitioners are not required to bear the cost of their own network design choices, they will have no incentive to deploy their own networks consistent with the goals of the Act.

That which petitioners claim is efficient may only be efficient to petitioners because they have improperly shifted the cost of doing business. Moreover, WorldCom wants indemnification against what is known as clip-on fraud. Verizon takes reasonable measure to secure its network, and there are certain risks associated with providing retail telephone service, and when WorldCom has the retail end user, it should have the risk.

As part of stepping up to their own business risk and responsibilities, and as entrants into the local markets, the petitioners should not be permitted to leverage or game the system to circumvent and erode the applicable access and interexchange services or otherwise improperly use their access to services. There are numerous

examples of issues in which petitioners seek to do just that. In an attempt to do end-run around access charges, NXX rather than a geographic location determine whether a call is subject to reciprocal computation rather than access charges.

WorldCom's request for supergroups or supertrunks will obscure their obligation to pay access charges. WorldCom is trying to game the system by aggregating its exchange access traffic at certain points and then running it into Verizon's LIDB under a local point code. The point code is used to identify the traffic as local or access, and the difference is the applicable price, which is lower if WorldCom uses the local point code. If WorldCom uses the local CLEC point code for all traffic, Verizon can't identify which traffic is supposed to be billed at the higher tariffed rate. Thus, WorldCom attempts to use its local Interconnection Agreement to avoid otherwise applicable tariff rates for exchange access traffic.

AT&T is attempting to provide service to

IXCs--not to its local end users--when it seeks in a local Interconnection Agreement what it calls "independent services."

At the end of the day, and despite petitioners' complaints about what Verizon won't do, Verizon steps up. It steps up to its responsibility to comply with the law, its duty to interconnect, its duty to provide its network and services at parity, and in a nondiscriminatory manner, and to its own business risk and responsibilities.

In fact, in many instances the question is not whether petitioners get a service or whether they get an element or certain information. It's more often an issue of how and at what price, at which time ask yourself whether petitioners are stepping up.

Thank you.

ARBITRATOR ATTWOOD: Thank you very much. We all flagrantly violated the new acronyms, but it was equal violation for all of you.

I would like to begin right away with the

panel without wasting time with a break, and move to subpanel one, which is issues III-6, III-7, III-8, III-9, VI-3-D, is my test of Roman numerals VII, X, and VII-11.

I would like to have Verizon's witnesses, so we will have the other witnesses. See if we could put everyone in there.

I would like you to identify yourself for the record, and I would like the Court Reporter to swear in the witnesses.

MR. LATHROP: Roy Lathrop for WorldCom.

MR. GOLDFARB: Chuck Goldfarb for WorldCom.

I have an errata sheet with three very small changes in it. What would be the process for introducing that?

MR. DYGART: Changes to your testimony?

MR. GOLDFARB: Changes to the testimony, yes.

ARBITRATOR ATTWOOD: After you're sworn in, we will bring it in.

MR. BUZAROTT: Alan Buzarott, WorldCom.